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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/748,754      | 12/26/2000  | Andrew P. Kramer     | 279.166US1          | 4508             |

21186 7590 08/27/2003

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EXAMINER

OROPEZA, FRANCES P

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3762

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/748,754

Applicant(s)

KRAMER ET AL.

Examiner

Frances P. Oropeza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 6/18/03 (Amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. The Applicant's submission filed on 6/16/03 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al. (US 5902324).

Thompson et al. disclose a multi-chamber cardiac pacing system for providing synchronous pacing to at least the two upper heart chambers or the two lower heart chambers or to three or to all four heart chambers. Multiple embodiments are disclosed including a symmetric and an asymmetric single chamber embodiment (col. 7 @ 55-67), dual chamber embodiment (col. 13 @ 53-59), bi-atrial and bi-ventricular, upper and lower chamber pacing system embodiment (col. 8 @ 1-6), and right / left pacing embodiment (c 8, ll 28-31). Multiple leads and multiple electrode configurations can be employed (col. 13 @ 11-19). The invention

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operates in demand and triggered pacing modes to treat bradycardia (col. 9 @ 35-52). Offset synchronized pacing is effected by optimally timed cardiac pacing pulses to each chamber as necessary accounting for the implantation site of the electrode (col. 11 @ 3-7 and 33-44). A blank signal read as a specified delay renders the amplifier inoperable prior to the protection period (col. 14 @ 15-35).

As to synchronized mode and rate chamber control, Thompson et al. disclose synchronized heart chamber pacing (col. 7 @ 16-21; col. 24 @ 8-15) where, in the asymmetric mode, the rate chamber controls the timing of the pacing escape interval (col. 7 @ 60-67).

As to expiration of an escape interval and pacing, based upon the rate chamber events and upon expiration of an escape interval, the synchronized chamber is paced unless the pace is inhibited by a "CDW INHIBIT signal". A "CDW INHIBIT signal" is generated when a conducted depolarization is detected in the synchronized chamber " during as a particular CDW time/period. A synchronnized chamber conduction delay window (CDW), read as the synchronized chamber protection period, is begun in response to a paced or sensed event in the rate chamber (col. 7 @ 8-13; col. 8 @ 1-15; col. 15 @ 14-46). When a depolarization is sensed in the synchronization chamber, the synchronized chamber pace is inhibited (col. 8 @ 11-15), the CDW timer is halted by the CDW inhibit signal, and the escape interval of claim 1 and 11, which is associated with the rate chamber (col. 15 @ 32-34), continues to run irregardless of the sensed and paced events in the synchronization chamber (col. 12 @ 6-28).

As to a stimulation pace to the rate chamber, no stimulation pace is delivered to the rate chamber (col. 8 @ 21-23; col. 16 @ 39-44).

As to resetting the escape interval and no pace to the synchronized chamber during a cardiac cycle in which a rate sense occurs, the escape interval is reset by a rate chamber sense such that no pace is delivered to the synchronized chamber during a cardiac cycle in which the rate sense occurs (col. 8 @ 11-15; col. 12 @ 6-12 and 54-60).

4. Claims 21-24 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Vock (US 6188926). Vock discloses a single and dual chamber (atrial and ventricular) pacemaker with back-up pacing based on exertion level to provide constant rate pacing unless pacing is inhibited during a protection period initiated by a sense in the chamber (abstract; col. 2 @ 60-62; col. 3 @ 7-12; col. 4 @ 13-14 and 57-60).

#### ***Statutory Basis***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza whose telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

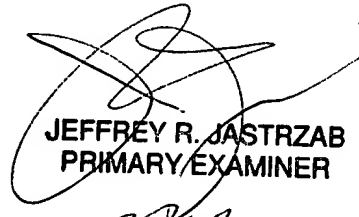
If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communication and (703) 306-4520 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Frances P. Oropeza  
Patent Examiner  
Art Unit 3762

8/20/03

  
JEFFREY R. JASTRZAB  
PRIMARY EXAMINER  
3762  
8/25/03